

COMPLAINT FOR MANDAMUS

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NAUSHABA MOMIN)	COMPLAINT FOR A
HAMI MOMIN)	WRIT IN THE
)	NATURE OF A
)	MANDAMUS
)	
Plaintiffs,)	
-against-)	
)	
ALEJANDRO MAYORKAS, Secretary of)	
Department of Homeland Security,)	
MERRICK GARLAND, Attorney General)	
of the United States, TRACY RENAUD,)	
Senior Official Performing Duties of the)	
Director for USCIS, DISTRICT DIRECTOR)	
Potomac Service Center for USCIS,)	
and The UNITED STATES)	
Defendants.		

COMPLAINT FOR MANDAMUS

Comes now Plaintiffs Naushaba Momin and Hami Momin (“Plaintiffs”) by and through her attorney, Bhavya Chaudhary, and pleads as follows:

I. INTRODUCTION

1. This is an individual action for mandamus. It seeks to compel Defendants, Department of Homeland Security (hereinafter referred to as “DHS”) and its responsible officials, and Department of Justice (hereinafter referred to as “DOJ”) to adjudicate Plaintiff’s pending I-130 Petition for her husband Hami Momin Case # IOE0909679764

II. JURISDICTION

2. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction); 5 U.S.C. §§ 555(b) & 706(1), the Administrative Procedures Act;

8 U.S.C. §1329, Immigration & Naturalization Act, and 28 U.S.C. § 1361, regarding an action to compel an officer of the United States to perform their duty.

III. VENUE

3. 28 U.S.C. § 1391(e), as amended, provides that in a civil action in which each defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or is an agency of the United States, the action may be brought in any judicial district in which a defendant in the action resides. Plaintiffs are residents of Northern District of Georgia. Defendants, being sued in their official capacity, are agents of the United States. The Departments of Homeland Security and Justice, Attorney General of the U.S. and United States Citizenship and Immigration Services (‘USCIS’) do business in the district.

IV. PLAINTIFF

4. Mrs. Naushaba Momin is a Citizen of the United States. On or around September 14, 2020, she filed an I-130 Immigrant Visa Petition for Alien Relative with USCIS, DHS, for her husband, Mr. Hami Momin, a citizen of India, under INA § 201 (B) and 8 U.S.C. § 1151. *See Exhibit 1*, Receipt Notice.

5. Plaintiff presently resides in the United States at 708 Stoneview Trail NW, Lilburn, GA 30047, in Gwinnett County.

V. DEFENDANT

6. Defendant Alejandro Mayorkas is the duly appointed acting Secretary of the Department of Homeland Security. He has the ultimate responsibility for the administration and enforcement of Immigration laws. He is being sued in his official capacity.

7. Defendant Merrick Garland is the Attorney General of the United States and the head of the U.S Department of Justice. He shares responsibility for the administration and enforcement of immigration laws. He is being sued in his official capacity.

8. Defendant Tracy Renaud is the Senior Official Performing the Duties of the Director of USCIS. In that capacity, she has direct authority over all USCIS policies, procedures, and practices relating to the processing and adjudication of applications for I-130. He is being sued in his official capacity.

9. The District Director for the Potomac Service Center Office have authority over USCIS activities within their respective Field Office's Jurisdiction. They are being sued in their official capacity.

VI. FACTUAL ALLEGATIONS

10. September 14, 2020, Plaintiff Naushaba Momin filed an I-130 Immigrant Visa Petition for Alien Relative for her husband, Mr. Hami Momin a citizen of India. Plaintiff's husband Hami Momin meets the requirement of an immigrant visa based on the I-130 Petition for Alien relative filed by her US Citizen spouse under *22 CFR § 42.21*. See again **Exhibit 1**.

12. Current processing times for I-130 Petitions filed by U.S Citizens for their spouse is about 12 months. See **Exhibit 2**, USCIS Processing Times. Plaintiff's I-130 petition filed for her spouse is beyond processing time as her receipt notice is dated September 14, 2020. Plaintiff's I-130 for her husband has been pending for almost three years now.

13. Plaintiff has still not received a decision on the I-130 filed on behalf of her husband.

14. Defendant acted in a callous and irresponsible way which contradicts the law and the applicable guidelines, denying due process to the Plaintiffs.

VII. CLAIMS

15. The Defendant has willfully and unreasonably refused to decide on Plaintiff's I-130 Petition for her spouse Hami Momin.

16. Mr. Hami Momin is also statutorily eligible in all respects to have I-130 Petition Approved. The Defendant has no substantive reason to deny or further delay the adjudication of his applications.

17. The Defendant has unreasonably, arbitrarily and capriciously abused its discretion by failing to decide and approve the Plaintiff's application.

18. The Plaintiffs have exhausted any administrative remedies that may exist.
WHEREFORE, Plaintiffs prays that the Court:

(1) Assume jurisdiction of this case;

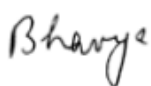
(2) Compel the Defendant and those acting under him to perform their duty to decide on the Plaintiff's I-130 Petition;

(3) Grant such other and further relief as this Court deems proper under the circumstance; and

(4) Award the Plaintiffs their attorney's fees and costs of court pursuant to the Equal Access to Justice Act (EAJA) or other applicable law.

Dated: February 15, 2023

Respectfully submitted,



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Certificate of Service:

I hereby certify that on February____, 2023, I mailed by certified mail this Summons and Complaint for Mandamus to:

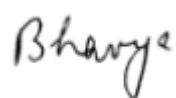
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U.S. Department of Homeland Security
Washington, DC 20528

Merrick Garland, Attorney General of the US
U.S. Department of Justice
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Tracy Renaud, Senior Official Performing Duties of Director
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